

PATENT COLLABORATION TREATY

Sender: THE DEPARTMENT IN CHARGE
OF INTERNATIONAL SEARCH

Addressee: Herminio FERNANDEZ MANZO CALLE DE PUEBLA, 174-2 COL. ROMA C.P. 06700 MEXICO CITY MEXICO		PCT OPINION IN WRITING OF THE DEPARTMENT IN CHARGE OF THE INTERNATIONAL SEARCH (Rule 43bis.1 of the PCT)	
Reference of the applicant's or agent's file		Date of issue (month/day/year) JANUARY 21, 2005 01. 21. 2005	
International application No. PCT/MX2004/000072		Date of international filing (month/day/year) OCTOBER 8, 2004 (10.08.2004)	Date of priority (month/day/year) OCTOBER 10, 2003 (10.10.2003)
International Patent Classification (IPC) or at the same time national classification and IPC A 47 J 36/28			
Applicant LARRABURE REYES, David			
1. This opinion contains indications on the following points:			
<input checked="" type="checkbox"/>	Box I	Basis of the opinion	
<input type="checkbox"/>	Box II	Priority	
<input type="checkbox"/>	Box III	No opinion on the novelty, inventive activity and industrial application	
<input type="checkbox"/>	Box IV	Lack of invention unit	
<input checked="" type="checkbox"/>	Box V	Motivated statement according to Rule 43bis.1.a)i) about the novelty, the inventive activity, and the industrial application; quotes and explanations supporting this statement	
<input type="checkbox"/>	Box VI	Certain documents quoted	
<input type="checkbox"/>	Box VII	Defects in the international application	
<input type="checkbox"/>	Box VIII	Remarks on the international application	
2. PROCEDURE CONTINUED If a preliminary international examination request is made, this opinion will be considered an opinion in writing of the International preliminary examining authority ("IPEA"), except in those cases in which the applicant chooses an authority other than this one, and the chosen IPEA has notified the International Bureau, as provided for in Rule 66.1bis(b) that opinions in writing of this Department in charge of the international search will not be considered as such. If this opinion is considered, as above set forth, an IPEA's opinion in writing, the applicant is asked to file with the IPEA a reply in writing together with the amendments, if any, before the end of the 3-month period as of the date on which form PCT/ISA/220 has been sent or before the end of the 22-month period as of the date of priority, whichever occurs later. For other opinions, see form PCT/ISA/220.			
3. For more details, see notes in form PCT/ISA/220.			
Name and postal address of the Department in charge of the International Search SPANISH PATENT AND TRADEMARK OFFICE C/Panama, 1- 28071 Madrid (Spain) Fax No. 91 349 53 04		Authorized official Perez Moreno, Ma. Paz Telephone No.: 91 349 53 94	

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CHARGE OF THE INTERNATIONAL SEARCH

International application No.
PCT/MX2004/000072

Box I. Basis of the opinion

1. Regarding the language, this opinion has been established on the basis of the international application in the language in which it was delivered, except specified to the contrary as follows:
 - ☐ This opinion is based on a translation from the original language to the following language _____ which is the language of a translation provided for purposes of an international search (according to Rules 12.3 and 23.1 b)).
2. Regarding the nucleotid and/or aminoacid sequences disclosed in the international application and required for the claimed invention, this opinion has been based on:
 - a. Type of material
 - ☐ a list of sequences
 - ☐ table(s) on the list of sequences
 - b. Material format
 - ☐ in writing
 - ☐ in computer readable support
 - c. Date of filing/ delivery
 - ☐ contents in the international application just as filed
 - ☐ filed together with the international application in computer readable format
 - ☐ subsequently filed to this Department for search purposes
3. ☐ In addition, in the event more than one version or copy of a list of sequences and/or table related thereto has been filed, the required statement that the information contained in the subsequent or additional copies is identical to the information contained in the application just as filed or that it does not go beyond the initial filing has been delivered.
4. Additional comments:

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Box V. Motivated statement according to rule 43bis.1.a)) on the novelty, the inventive activity and the industrial application; quotes and explanations supporting this statement.

1. Statement

Novelty	Claims	1 - 3	YES
	Claims		NO
Inventive activity	Claims	1 - 3	YES
	Claims		NO
Industrial application	Claims	1 - 3	YES
	Claims		NO

2. Quotes and explanations

Documents considered.

Doc.	Number of Publication or Identification	Date of Pub.
D01	ES 2014324	07. 01.1990
D02	ES 1015265	06.16.1991
D03	ES 0245741 U	01.16.1980
D04	ES 5461867	10.31.1995

Two groups of inventions related to the invention have been found, which form the state of the art.

On the one hand, there are containers that include an air-tight module that includes two chemical reactives (see documents D01, D03, D04). Such reactives are stable in separate, but when mixed, an exothermal or endothermal reaction is produced that produces heat or cold that is transferred to an element, regularly food or drink, contained in another module of the same container separated from the first module. In order for the reactives to get mixed, the container thereof has to be broken, so such containers may not be reused, and this makes them different from the invention.

On the other hand, we have a group of inventions (see document D02) consisting of pads with a closed compartment and an open compartment, where the object to be heated is introduced. In such inventions, the heat is supplied by an electric or similar resistance, they are not autonomous devices, since they depend on an external power supply.

Consequently, by examining these documents found, the invention is considered to have a novelty, inventive activity, and industrial application.

Nevertheless, by examining document D02, it could be considered that the invention is not totally novel. But the problem is not the inventive idea but the wording of claims 1 and 2. Such claims do not include the way in which heat is produced, and thus it may seem that the purpose of the invention is already known. Therefore, it is deemed advisable to include the way in which heat is produced in claim 1, in order for the invention protection to be effective.

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I, María de los Ángeles Pérez Cue, expert translator approved by the Superior Court of Justice in and for Mexico City, hereby certify that to the best of my knowledge and belief the above is a true translation of its original in Spanish.

Mexico City, March 15, 2006.

María de los Angeles Pérez Cue

APJ